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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,428	07/07/2003	James P. Davidowitz	061801/1061	7410

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EXAMINER
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VYAS, ABHISHEK

ART UNIT	PAPER NUMBER
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3691

MAIL DATE	DELIVERY MODE
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06/27/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/615,428

**Applicant(s)**

DAVIDOWITZ ET AL.

**Examiner**

ABHISHEK VYAS

**Art Unit**

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### Status of Claims

1. This action is in reply to the amendments and remarks filed on 10 March 2008
2. Claims 1, 5, 9 and 13 have been amended.
3. Claims 17 and 18 have been added.
4. Claims 1-18 are currently pending and have been examined.
5. Claims 1-18 are rejected.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 1, 3-5, 7-9, 11-13, 15-18** are rejected under 35 U.S.C. 103(a) as being unpatentable over Burns et al (herein after Burns) United States Patent No. : 7,243,083 in view of Potter et al ("Potter") United States Patent No.: 5,787,402 and Gerhard United States Patent No.: 6,852,683 B1.
8. **As per claims 1, 5, 9, 13, 17 and 18;** Burns discloses the following limitations:
  - Identify spread parameters pertaining to the securities (see at least Burns column 1, lines 34-41; column 2, lines 39-51; column 4, lines 1-12).
  - receive market data relating to the two or more securities of the spread; determine whether the market data falls within certain spread parameters and, if the market data falls within the certain spread parameters (see at least Burns column 5, lines 33-40; column 2, lines 39-51; column 4, lines 1-12, 16-23 and 39-46).

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- *In regards to claim 17:* initiate a second order in a second market for a second security of the spread, whereby the second order is at a selected ratio as compared to the first order to reduce the risk of adverse price movements in the first security (see at least Burns column 4, lines 38-51 and 55-61; column 7, lines 34-40; column 8, Equation 2; column 9, lines 7-11).
- *In regards to claim 18:* bid/offer size; round lot; last/bid tick direction; markets(s) open; depth of market; and position limits (see at least Burns column 3, lines 50-55; column 9, lines 46-50; column 6, lines 54-60; column 10, lines 5-7; column 13, lines 18-30)

Potter discloses a FX order and various rules to perform a FX trade (see at least Potter column 9, lines 1-6, 38-41; column 10, lines 11-20). Potter further discloses the following limitation:

- *In regards to limitation of claims 17:* evaluate whether the rule checks are satisfied; if the market data falls within the certain spread parameters and the rule checks are satisfied (see at least Potter column 7, lines 59-66)

Burns and Potter do specifically disclose the limitation below. Gerhard, however, teaches the limitations as follows:

- initiate a first order in a first market for a first security of the spread in a foreign currency; initiate a second order in a second market for a second security of the spread, whereby the second order is at a selected ratio as compared to the first order to reduce the risk of adverse price movements in the first security initiate an FX Order to offset foreign exchange exposure resulting from the first order in the first market (see at least Gerhard column 1, lines 25-43; column 3, lines 1-25; column 4, lines 1-6 and 35-48; column 6, lines 2-29).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have expanded the system and method of Burns and Potter to include initiating orders in two

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or more markets and placing an FX order to hedge against currency exposure. One would be motivated to do so to prevent exposure loss and gain profits from various arbitrage opportunities between the various currencies of the world and taking advantage of the disparities between interest rates, exchange rates and investment yields (see at least Gerhard column 1, lines 40-43; column 2, lines 60-64; column 6, lines 2-29; Burns column 1, lines 34-50; column 4, lines 26-34; Potter column 1, lines 50-54; column 5, lines 60-61).

9. **As per claim 3, 7, 11 and 15**, Burns discloses the following limitation:

- convert the market data related to one or more securities in the spread to a certain currency identified in the spread parameters for the spread (see at least Burns column 6, lines 54-59).

10. **As per claim 4, 8, 12 and 16**, Burns discloses the following limitation:

- initiate the first order only where the market data related to one or more securities in the spread pass certain rule checks (see at least Burns column 7, lines 41-52).

11. **Claims 2, 6, 10, 14** are rejected under 35 U.S.C. 103(a) as being unpatentable over Burns et al.

United States Patent No.: 7,243,083 B2 in view of Potter et al. United States Patent No.:

5,787,402 and further in view of Raykhman United States Patent No.: 7,171,386 B1. 11.

12. **As per claims 2, 6, 10, 14**; Burns and Potter disclose a trading system of two or more securities.

Burns and Potter do not disclose the following limitations. Raykhman, however, discloses the limitations as follows:

- the first order is a limit order and the second order is a market order, (see at least Raykhman column 3 lines 15-17; column 5, lines 35-39).
- the second order is initiated following confirmation of the first order (see at least Raykhman column 16, lines 50-63; column 18, lines 10-18).

It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the system of Burns and Potter to specify the market orders and limit orders and to place the orders in order. One would be motivated to do so to provide fair and prompt execution of orders

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that would maximize the hedge against exposure (see at least Raykhman column 8, lines 43-46; lines 54-65)

### ***Response to Arguments***

13. Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abhishek Vyas whose telephone number is 571-270-1836. The examiner can normally be reached on 7:30am-5:00pm EST Mon-Thur, ALT Friday OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Abhishek Vyas  
Patent Examiner  
20 June 2008  
AV

/Alexander Kalinowski/

Supervisory Patent Examiner, Art Unit 3691